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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.3296 OF 2004

Baburao Rakhma Darade ... Petitioner

Vs.

State of Maharashtra & Ors. ... Respondents

Mr. M.J. Jamdar for the petitioner.

Mr. R.M. Sawant, A.G.P. for respondents 1 to 4.

Mr. P.U. Samdani i/b G.B. Kedia for respondents 6 and 7.

CORAM: SMT. RANJANA DESAI &
ABHAY S. OKA, JJ.

DATED: 22ND NOVEMBER 2005.

P.C.:-

1. The petitioner's case, in short, is that he was in possession of two tenements totally admeasuring 16.72 sq. mtrs. in the Rameshchandra Chimanlal Chawl No.D, Tardeo, Mumbai, and he is entitled to that much area. He has sought a direction to respondents 1 to 4 and 6 to allot to him two separate rooms in the newly constructed building in lieu of his old tenements. The petitioner had filed Writ Petition No.2809 of 2002 for the similar reliefs. On 16/12/2002, this court directed that if any representation is made by the petitioner to respondent 1 within one month from the date of the said order, respondent 1 should after hearing the petitioner and respondent 5 and upon consideration of the relevant material, decide the petitioner's representation

expeditiously and preferably within three months from the date of receipt of such representation. The representation of the petitioner has been decided on 4/3/2004 by the Chief Officer of respondent 3. It appears that the Chief Officer has held that the petitioner is entitled to only one tenement in the new building in place of room No.55/78 in the old building.

This letter is challenged in this petition.

2. We have heard Mr. Jamdar the learned counsel appearing for the petitioner. Mr. Jamdar has drawn our attention to certain documents which he has secured after the impugned order is passed on 4/3/2004. He states that in the nature of things, the said documents could not have been considered by the Chief Officer as he got possession of the same later on. He submitted that they are vital documents and they need to be considered. He further contended that no personal hearing was given to the petitioner. We may note that according to the respondents, personal hearing was given to the petitioner. We do not want to go into that aspect of the matter. However, in the aforementioned circumstances, we feel that the impugned order dated 4/3/2004 deserves to be set aside and the Deputy Chief Officer should be directed to give a personal hearing to the petitioner and consider the additional documents which may be produced by the petitioner. Hence, the following order:

ORDER

(a) The impugned order dated 4/3/2004 is set aside. The Deputy Chief Officer of respondent 3 is directed to give a personal hearing to the petitioner and decide his representation dated 31/12/2002 afresh after considering additional documents which the petitioner may tender before him. The representation be decided afresh within a period of eight weeks from the date of receipt of this order by him. The result of the said representation be communicated to the petitioner within a period of one week thereafter. We make it clear that we have not expressed any opinion on the merits of the case and the impugned order is not set aside on merits.

3. The petition is disposed of.

(SMT. RANJANA DESAI, J.)

(ABHAY S. OKA, J.)